THE HONOURABLE SRI JUSTICE N.V.RAMANA

Writ Petition No.1850 of 2001

Dated: 9th March, 2006

Between:

M.Kannan.

…..PETITIONER

AND

Andhra Pradesh State Road
Transport Corporation, Office of the
Managing Director, Musheerabad,
Hyderabad, represented by its
Managing Director & 2 others.

….RESPONDENTS

THE HONOURABLE SRI JUSTICE

N.V.RAMANA

W.P.No.1850 of 2001

ORDER:

The petitioner, who is a Driver in the respondent-Corporation, and was retired on medical grounds, has filed this writ petition seeking to call for the records relating to proceedings No.E1/785(B)/2000-RM (T), dated 31-10-2000, of the 2nd respondent/Regional Manager, A.P.S.R.T.C, Tirupati Region, rejecting the representation dated 12-8-2000 filed by the petitioner to provide him alternative

employment or to provide employment to his children, as illegal and arbitrary, and consequently to direct the respondents to refer the petitioner to a Special Medical Board, for getting a certificate of fitness, and if found fit, direct the respondents, to reinstate the petitioner in the post of Driver or in an equivalent post.

This is a second round of litigation. Earlier, the petitioner filed W.P.No.8301 of 1998 seeking direction to the respondents to constitute a special Medical Board, and the said writ petition, by order dated 27-3-1998 was dismissed granting liberty to the petitioner to submit representation to the authorities concerned seeking alternative employment.

A counter affidavit is filed by the respondents, *inter alia,* denying the allegations made by the petitioner in the writ affidavit. In the counter, at para 4, it is stated that the petitioner made a representation dated 26-4-1994 to the Depot Manager, B.Kothakota stating that due to his medical illness, he is not in a position to discharge his duties as a Driver, and that he may be retired from service on medical grounds. At para 5 of the counter, it is further stated that the petitioner made a representation dated 28-4-1994 to the Depot Manager, B.Kothakota, stating that he does not require any employment for his children in the Corporation, and requested to grant Additional Monetary Benefit in lieu of alternative employment, and based on such representation, the petitioner was paid an amount of Rs.24,516-40 ps. as Additional Monetary Benefit in lieu of alternate employment. At para 6, it is further stated that alternative appointment offered to medically unfit Drivers is only Cleaner, and the petitioner did not give his willingness to work as Cleaner. It is further stated that the petitioner having himself sought retirement on medical grounds and having received all the retrial benefits in 1994 itself, it is not open for him now to say that as he is medically fit, he may be allowed to work as Driver or in any other alternative post. Hence, they prayed that the writ petition be dismissed.

Heard the learned counsel for the petitioner as also the learned counsel for the respondents.

The contention of the petitioner that he is fit to work either as Driver or undertake any other alternative employment, and as such, he should be allowed to work as Driver or in any alternative post or provide alternative employment to his children, cannot be sustained for the reason that the petitioner has himself sought retirement from service on medical grounds, based on the Medical Certificate issued by the Doctor of APSRTC Hospital, Tarnaka, who certified that the petitioner is medically unfit for discharging A.1 category jobs due to heart problem. The respondents considering the request of the petitioner positively, have allowed him to retire on medical grounds, and though he seeks alternative or employment to his children, the fact remains the petitioner has himself made representations dated 26-4-1994 and 28-4-1994 to the respondents informing them that he does not want any alternative employment either for himself or for his children, and that though the petitioner was offered alternative employment in the post of Cleaner, he refused to accept and sought grant of additional monetary benefits in lieu of alternative employment, which the respondent had paid. The respondents having retired the petitioner on medical on his own request, and he having submitted representations

to the respondents expressing his unwillingness to accept alternative employment to him or to his children, and having taken all the retrial benefits, including additional monetary benefits, now cannot be allowed to contend that he should be provided alternative employment or his children should be provided a job or in the alternative direct the respondents to send him for medical examination before Special Medical Board, for ascertaining his medical fitness.

In the above view of the matter, there is no merit in the writ petition, and the same is accordingly dismissed.

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(N.V. RAMANA, J.)

Date:23rd March, 2006.

GRK